



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

April 24, 2013

VIA ELECTRONIC MAIL

Eugene Ohm, Esq.,
Public Defender Service
Counsel for Detrek Baker

Re: United States v. Detrek Baker
Case No.: 2012 CF1 7398

Dear Mr. Ohm:

I write to convey the following pre-indictment plea offer to your client, Detrek Baker. **This plea offer expires on Friday, April 26, 2013.** However, the Government reserves the right to revoke this plea offer at anytime before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia.

The terms of the plea offer are as follows:

1. Your client agrees to admit guilt and enter a plea of guilty to one count of **Second Degree Murder While Armed**, in violation of D.C. Code §§ 22-2103, 2104, 4502 (2001 ed.). Your client understands that this offense carries a maximum penalty of life imprisonment, but no more than forty (40) years' incarceration (unless the government proves aggravating circumstances). This offense carries a mandatory minimum penalty of five (5) years' incarceration.

2. Your client understands that the government will reserve stepback pending sentencing, will waive any sentencing enhancement papers (which do appear to apply), and will reserve allocation at sentencing, subject to the terms set forth in paragraph 5 of this agreement.



3. The parties agree that your client shall, on the date of the plea, after taking an oath to tell the truth, in open court, agree to a factual proffer included with this paperwork.

4. Your client and the Government agree that a period of incarceration of 276 months (23 years) is the appropriate sentence in this case.

5. Your client and the government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, that is, 276 months (23 years) of incarceration, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that in light of other factors, the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement. The government reserves the right to withdraw this plea offer at any time prior to acceptance of the plea by the Court.

6. In accepting this plea agreement and entering a plea of guilty to the offenses specified in paragraph 1, your client understands and agrees to knowingly, intelligently, and voluntarily waive certain rights afforded to him by the United States Constitution and/or by statute. These rights include, but are not necessarily limited to, the right to a probable cause determination by a magistrate, the right against self-incrimination, the right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial, the right to confront and cross-examine witnesses, and the right to appeal his conviction.

7. The charge to which your client would be entering a guilty plea is a crime of violence as defined in D.C. Code Section 23-1331(4). Some of the evidence that was recovered in this case may contain biological material, which could be subjected to DNA testing. Before the government will agree to the above plea offer, the defendant must waive, in writing and in open court at the time of the plea, any right he might have to test the evidence for the presence of DNA.

8. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

Respectfully,

RONALD C. MACHEN JR.
United States Attorney

A handwritten signature in black ink, appearing to read "K. Nielsen", with a long horizontal line extending to the right.

Kimberley C. Nielsen
Assistant United States Attorney

DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing (or independent DNA testing, if applicable). I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing (or independent DNA testing, if applicable) of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: 4/25/13

Detrek Baker
Detrek Baker, Defendant

Date: 4/25/13

Eugene Ohm
Eugene Ohm, Esq.
Attorney for the Defendant

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and factual proffer and have discussed it with my attorney. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: 4/11/11

Detrek Baker
Detrek Baker
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely sets forth the entire plea agreement.

Date: 4/11/11

Eugene Ohm, Esq.
Eugene Ohm, Esq.
Attorney for Defendant

PROFFER OF FACTS

Had this case gone to trial the Government's evidence would have proven beyond a reasonable doubt that on April 28, 2012, at approximately 1:40 p.m., the decedent, James Sherrod, and the defendant, Detrek Baker, were standing together, near others, by a bus stop located alongside 776 Kenilworth Terrace, N.E., Washington, D.C. While they stood there, the defendant produced a handgun and fired at least one shot at the decedent, grazing his head and causing him to fall to the ground. The defendant then stood over the decedent and fired three shots into his body, killing him. The decedent was not armed and posed no physical or other threat to the defendant; the decedent and defendant were not engaged in an altercation and had no known conflict with each other at or near the time of the shooting.

After shooting the decedent, the defendant ran towards the rear of 800 Kenilworth Avenue, N.E., carrying the firearm in his hand and a wearing a single-strap back pack. The defendant threw the firearm and the back pack into a dumpster in the rear of 800 Kenilworth Avenue, N.E., and fled. Within approximately thirty minutes of the murder, based on witness accounts, police searched the dumpster and recovered the defendant's back pack and the firearm – a .357 caliber Taurus Revolver with five spent casings and one live round in the chamber. The defendant's back pack contained five live rounds of .357 ammunition.

DEFENDANT'S ACKNOWLEDGMENT

I have read and discussed the Government's Proffer of Facts with my attorney. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: 4/27/12

Detrek Baker
Detrek Baker
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read the Government's Proffer of Facts as to my client's guilty plea. I have reviewed the entire Proffer with my client and have discussed it with him fully. I concur in my client's agreement with and acceptance of this proffer.

Date: 4/27/12

Eugene O'ma
Eugene O'ma, Esq.
Attorney for Defendant